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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,085	08/22/2001	Joe S. Abuan	08226/0203220-US0	8551
38880	7590	05/19/2006	EXAMINER	
DARBY & DARBY P.C. P.O. BOX 5257 NEW YORK, NY 10150-6257			DURAN, ARTHUR D	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,085

Applicant(s)

ABUAN ET AL.

Examiner

Arthur Duran

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 28-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 28-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-3 and 28-51 have been examined.

Election/Restrictions

2. Applicant's election with traverse of 1-3 in the reply filed on 5/5/2006 is acknowledged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 28-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dialpad.com (Dialpad.com screenshots from 8/17/2000 and prior obtained via [www.archive.org/The Wayback Machine](http://www.archive.org/The_Wayback_Machine)) in view of Landsmann (6,314,451).

Claim 1, 36, 37, 44, 49, 50: Dialpad.com discloses a method of providing dynamically updated audio data comprising:

downloading at least one multimedia file including audio advertisement data;

downloading configuration instructions for controlling broadcast of at least one audio advertisement based at least in part on a status of a conferencing link over a network; and

broadcasting said audio advertisement data in accordance with said configuration instructions (see Dialpad.com screenshots enclosed).

Art Unit: 3622

Also, note that the Dialpad.com press release from 1/12/2000 states that a variety of multimedia files can be utilized including audio data. Also, note that these files can be rotated before, during or after the telephone calls. Also, note that 'audio ad bumpers' can be played on the front and/or back end of calls. Also, note that the Java applet is downloaded to the users computer from a website.

Dialpad.com does not explicitly disclose that or when advertisement data is download to the user computer. However, Dialpad.com discloses that advertisement data is presented to the user before, during, or after the telephone call made by the user. Hence, it would be obvious to one skilled in the art that advertisement data/info can be downloaded to the user before, during, or after the telephone call made by the user or at anytime the user accesses the dialpad.com website. One would be motivated to do this in order to have the advertisement ready to present without delay. Also, note that Landsmann further discloses motivation for download advertisements such that they are ready for display (Abstract; col 3, line 52-col 4, line 27).

Claims 2, 38, 45: Dialpad.com discloses the method of claim 1 further comprising:
downloading additional audio advertisement data; and
broadcasting said additional audio advertisement data in accordance with said audio configuration instructions (see Dialpad.com screenshots).

Claims 3, 33, 39, 46: Dialpad.com discloses the method of claim 2, further comprising:
interrupting said downloading of said additional audio data;
establishing the conferencing link; and
thereafter resuming said downloading of said additional audio data (see Dialpad.com

Art Unit: 3622

screenshots and the rejection of claim 1 above). Dialpad.com does not explicitly disclose interrupting the downloading of advertisements. However, Examiner notes that it is old and well known that initiating a command in a website can cancel priorly initiated actions or downloading activity on a website. As an example of this, Landsman discloses interrupting the downloading of advertising data when a user initiates a particular command for content or action of interest to the user (col 10, line 30-col 11, line 35). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Landsman's interrupting advertising downloading to Dialpad.com's downloading advertising and initiating user commands. One would have been motivated to do this in order to promptly attend to user actions of interest.

Claim 28, 40, 47: Dialpad.com discloses the method of Claim 1, wherein the status of the conferencing link is controlled using a browser interface to a conferencing website (see Dialpad.com screenshots).

Claim 29: Dialpad.com discloses the method of Claim 1, wherein the status of the conferencing link comprises one of the following; initiated, active, and terminated (see Jan 12, 2000 news release screenshot).

Claim 30, 41: Dialpad.com discloses the method of Claim 1, wherein the configuration instructions cause the broadcasting of said audio advertisement data to occur at one of the following:

before the conferencing link is active and after the conferencing link is active
(Dialpad.com screen shots; Dialpad.com Press Release from January 12, 2000).

Art Unit: 3622

Claim 31, 42: Dialpad.com discloses the method of Claim 2, further comprising modifying the audio advertisement data based at least in part on the additional audio advertisement data (see advertisers screenshot, Customized Opportunities;).

Claim 32, 48: Dialpad.com discloses the method of Claim 1, wherein the configuration instructions include at least one of the following:

an identifier of the audio advertisement data, a storage location of the audio advertisement data, a sequence in which the audio advertisement data is to be broadcast, a frequency at which the audio advertisement data is to be broadcast, a combination of portions of the audio advertisement data to be broadcast, an association of the audio advertisement data with graphical advertisement data, a number of times the audio advertisement data is to be broadcast and a period between broadcasting one portion of the audio advertisement data and another portion of the audio advertisement data (see Dialpad.com Press Release from January 12, 2000).

Also, Dialpad.com discloses the features of an association of the audio advertisement data with graphical advertisement data (Dialpad.com Press Release from January 12, 2000). It would be obvious to one skilled in the art that Dialpad.com can combine the disclosed multimedia, graphic, banner, audio advertisements. One would be motivated to do this in order to present an advertisement of interest to the user.

Claim 34: Dialpad.com discloses the method of Claim 1, wherein the audio advertisement data is based at least in part on profile data associated with a user of the conferencing link (see company screenshot; see help screenshot; "What is your privacy policy?").

Art Unit: 3622

Claim 35: Dialpad.com discloses the method of Claim 1, wherein the conferencing link comprises a voice over internet protocol link (see technology screenshot).

Claim 43: In regards to the device being a mobile device, MPEP Section 2144.04.V.A states that making a device portable or movable is an obvious variation.

Claim 51: Dialpad.com discloses that the conferencing link includes a telephone link (see Dialpad.com screenshots).

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a) Business 2.0, July 11, 2000, 'Got Fiber?'
- b) Internet Telephony Product Reviews, July 2000, Dialpad.com
- c) Dialing From Your Desktop May 25, 2000, PC Magazine; PC Magazine picks Dialpad.com as Editor's Choice (June 6, 2000)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arthur Duran
Primary Examiner
5/11/2006